

REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1-67 were pending in this application. In this Amendment, Applicants have amended claims 1, 4, 27, 42, 45, 48, 53, 54, 56, 59, 62, 65, and 67, and have canceled claims 3, 38-41, and 64. Accordingly, claims 1, 2, 4-37, 42-63, and 65-67 will be pending after entry of this Amendment.

In the Office Action mailed August 11, 2004, the Examiner rejected claims 1-14, 22-37, 42, 44-56, and 58-67 under 35 U.S.C. § 101 for being directed to non-statutory subject matter. The Examiner also rejected claims 1-67 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,884,270 to Walker et al. ("Walker"). Because Applicant has canceled claims 3, 38-41, and 64, the rejections are moot with respect to those claims. To the extent, however, that these rejections might still be applied to the claims presently pending, Applicants respectfully traverse the rejections as set forth below.

Regarding the rejection under § 101, Applicant has amended independent claims 1, 27, 42, and 56 to recite limitations that involve the technological arts, such as the use of a computer. Applicants therefore respectfully submit that amended independent claims 1, 27, 42, and 56, and their pending dependent claims, are directed to patentable subject matter under § 101.

Regarding the § 103 rejections, Applicant has also amended independent claims 1, 27, 42, and 56 to emphasize a feature concerning the payment of bonuses that the prior art of record neither teaches nor suggests. In particular, amended claims 1, 27, 42, and 56 recite that the

employment placement service provider, not the employer, pays an applicant a bonus. The source of this payment is a key distinction of the present invention that establishes a novel transaction and incentive structure between the parties to an employment placement, *i.e.*, the applicant, the employer, and the employment placement service provider.

As recited in various forms in amended claims 1, 27, 42, and 56, the employment placement service provider pays an applicant a bonus when the applicant uses the employment placement service to locate an employer and is hired by the employer. As described, for example, at page 6, lines 1-13 of the present application, this bonus encourages an applicant to use the employment placement service. In turn, as a further incentive, employers only pay the employment service provider for successful placements. These payments can be used to fund further signing bonuses. Thus, these aspects of the present invention represent a novel transaction for employment placement, which ensure a successful employment placement by offering incentives on both sides of the transaction. Support for these features can be found in the present application at, for example, page 6, line 1 to page 7, line 3 and page 18, line 18 to page 20, line 21.

By contrast, Walker teaches away from this transaction and incentive structure by disclosing that the employer pays the applicant a signing bonus. (*See, e.g.*, column 3, lines 9-15 and column 6, lines 25-38.) In addition, according to the traditional recruiting scenario described by the Examiner, the employer pays the recruiter when a position is filled and possibly also pays the applicant a signing bonus, rather than the recruiter paying the applicant a signing bonus, as is the case in the present invention. The traditional recruiting scenario therefore subjects the

employer to the burdens of payroll withholding and reporting requirements, whereas the present invention does not, as described, for example, at page 20, lines 9-18 of the present application.

Thus, Walker and the traditional recruiting scenario described by the Examiner, whether taken alone or in combination, fail to teach or suggest that the employment placement service provider pays the applicant the bonus.

Accordingly, Applicant respectfully submits that amended independent claims 1, 27, 42, and 56 are patentable over the prior art of record. In addition, Applicant respectfully submits that dependent claims 2, 4-26, 28-37, 43-55, 57-63, and 65-67 are also patentable due at least to their dependence on amended claims 1, 27, 42, and 56. Applicants have also amended claims 4, 45, 48, 53, 54, 59, 62, 65, and 67 to be consistent with amendments made to their base and intervening claims.

In view of the foregoing, all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone Applicant's undersigned representative at the number listed below.

SHAW PITTMAN LLP
1650 Tysons Boulevard
McLean, VA 22102
Tel: 703/770-7900

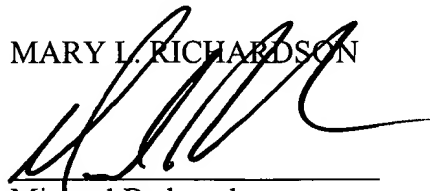
Date: February 11, 2005

MDB/SPA/kmh
Customer No. 28970

Respectfully submitted,

MARY L. RICHARDSON

By:


Michael Bednarek
Registration No. 32,329